IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 458 of 1998

Between:

M/s. Sri Srinivasa Ceramics,

Rajapudi,Jaggampeta Mandal,

E.G. Dist., rep by its Managing Partner A.Srinivasa Rao

..... PETITIONER

AND

1.. The Commissioner of Labour,

Andhra Pradesh, Hyderabad

2.. The Asst. Commissioner of Labour,

Rajahmundry, E.G. district.

3.. The Asst. Labour Officer,

II Circle, Rajahmundry, E.G. dist

4.. Barla Ganapathi S/o. Vankata Rao

Rajapudi, Rajahmundry district **.....RESPONDENT**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of mandamus declaring the demand notice issued by the 3rd respondent in

RC.No.191/97 dated 13-6-1997 and the consequential impugned order dated 25-10-1997 in Rc No.B/1974/97 of the 2nd respondent as highly illegal, arbitrary, unjust, improper and consequently direct the respondents 1 to 3 to drop all the further proceedings in this regard

Counsel for the Petitioner:MR.BADANA.BHASKARA RAO

Counsel for the Respondent No.: .

The Court made the following :

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ORDER:

This writ petition is filed seeking a declaration that the demand notice dated 13.06.1997, issued by respondent No.3, and the consequential orders dated 25.10.1997, passed by respondent No.2 dated 23.10.1997, imposing fine of Rs.20,000/- against the petitioner for engaging children in an hazardous industry, as illegal, arbitrary and contrary to law.

The facts in brief, which lead to filing of the present writ petition are - the petitioner is a small-scale industry. It is engaged in the manufacture of bricks. While so, an inspection of the petitioner's factory premises was alleged to have been conducted on 2-5-1997, and based on the alleged inspection report, which found the petitioner to have employed children, respondent No.3 issued demand notice dated 13-6-1997 alleging that the petitioner engaged a child labour in the manufacturing of bricks, which is hazardous and is prohibited under the Child Labour (Prohibition and Regulation) Act, 1986, and called upon the petitioner to pay Rs.20,000/- per child. The petitioner submitted a reply to respondent No.3 on 29-6-1997 stating that the child is no way concerned or connected with the petitioner. Having not satisfied with the reply, an enquiry was conducted, and not satisfied with the stand taken by the petitioner in the enquiry, respondent No.2 passed the impugned order dated 25-10-1997, confirming the demand notice issued by respondent No.3. Assailing this order, the petitioner filed the present writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Labour and Employment.

The learned counsel for the petitioner submitted that the petitioner is a non-

hazardous industry, and respondent No.2 without affording any reasonable opportunity and without considering the facts of the matter, in an inductive and biased manner, passed the impugned order, which is illegal and unjust. He further contended that before issuing the impugned demand notice and the consequential impugned order, no reasonable opportunity of hearing was afforded to the petitioner to put forth their case during the enquiry. The impugned demand notice, and the consequential orders, are the result of an alleged enquiry, conducted behind the back of the petitioner and without any notice, and further no report of the enquiry was furnished to the petitioner. He submitted that since the petitioner is not an hazardous industry, the rigor of the judgment of the Apex Court in W.P. No. 465 of 1986, which dealt with elimination of child labour in hazardous factories and industries, cannot be applied to the case of the petitioner, and as such, the action of respondent No.3 in issuing demand notice, demanding the petitioner to deposit a sum of Rs.20,000/- as penalty, which was confirmed by the consequential orders of respondent No.2, are illegal and unjust, and as such, are liable to be quashed and set aside.

Though the writ petition was admitted in January, 1998, till date no counter affidavit is filed in the matter. However, the learned Government Pleader for Labour appearing on behalf of the respondents submitted that the petitioner is an hazardous industry, engaged in the manufacturing of bricks, and having regard to the fact that the petitioner employed child labour in his industry, which is prohibited by the Child Labour (Prohibition & Regulation) Act, 1986 and the judgment of the apex Court in W.P. (Civil) No. 465 of 1986, respondent No.3 upon an inspection report, issued the demand notice imposing penalty of Rs.20,000/-, which was confirmed by respondent No.2, and no exception can be taken thereto.

While admitting the writ petition, this Court by order dated 6-1-1998 granted a conditional interim order suspending the impugned order on condition of petitioner depositing Rs.5000/- by 31-1-1998.

A perusal of the impugned order, would reveal that pursuant to an inspection of the petitioner's industry on 2-5-1997, wherein it was found that the petitioner engaged a child, a demand notice dated 13-6-1997 was issued by respondent No.3 to the petitioner to deposit an amount of Rs.60,000/- and thereafter, considering the objections filed by the petitioner, an enquiry was conducted, respondent No.2 passed the impugned proceedings dated 25-10-1997, confirming the demand notice issued by respondent No.3, directing the

petitioner to deposit Rs.20,000/- for engaging a child.

Though the petitioner contends that the petitioner has not engaged the child labour and no opportunity was afforded before passing the impugned order, the fact remains in the inspection report, which is prepared in detail, and on which the signatures of those present was taken, it was found that the petitioner engaged child labour in his industry, and having regard to the fact that engaging of child labour in hazardous factories and industries, is prohibited under the Child Labour (Prohibition & Regulation) Act, 1986, respondent No.3 issued the demand notice, which stood confirmed by the impugned proceedings of respondent No.2, and no exception can be taken thereto.

Under Section 14 of the Child Labour (Prohibition and Regulation) Act, 1986, whoever employs any child or permits any child to work in contravention of the provisions of Section 3 is punishable with imprisonment for a term not less than three months and not more than one year or with fine of not less than ten thousand rupees, which may extend to twenty thousand rupees or with both. However, having regard to the facts and circumstances of the case, I am of the considered opinion that the ends of justice would be met, if the writ petition is disposed of reducing the penalty imposed and demanded in the impugned notice and the consequential order from Rs.20,000/- to minimum fine amount under the Child Labour (Prohibition & Regulation) Act, 1986 i.e., Rs.10,000/- each.

Accordingly, the writ petition is disposed of reducing the penalty imposed and demanded in the demand notice dated
13-6-1997, issued by respondent No.3, and the consequential impugned order dated 25-10-1997, issued by respondent No.2, confirming the demand notice, from Rs. 20,000/- to Rs.10,000/-each.
No costs.

N.V.RAMANA,J

15-4-2005

TVK/JSU

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1.. The Commissioner of Labour,

Andhra Pradesh, Hyderabad

2.. The Asst. Commissioner of Labour,

Rajahmundry, E.G. district.

3.. The Asst. Labour Officer,

II Circle, Rajahmundry, E.G. dist

4.. Barla Ganapathi S/o. Vankata Rao

Rajapudi, Rajahmundry district

5) 2 CD copies

6) 1 CC to MR.BHASKARA RAO

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